

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-2, 4-23 and 25 are pending in the application. Claims 3, 24, 26-33 have been cancelled without prejudice or disclaimer. The previously presented claims have been revised to improve claim language. The amended claims find solid support in original claim 3, the original specification at page 6, the second full paragraph from bottom, the paragraph bridging pages 11-12, and FIG. 1 at 9. No new matter has been introduced through the foregoing amendments.

The 35 U.S.C. 102(b) rejection of claims 1, 17, 18 as being anticipated by *Schwartz* is believed overcome in view of the above amendments, i.e., independent claim 1 now includes features of claim 3 which was not rejected over *Schwartz*.

The 35 U.S.C. 102(b) rejection of claims 1, 17, 25 as being anticipated by *John Rogers* is believed overcome in view of the above amendments, i.e., independent claim 1 now includes features of claim 3 which was not rejected over *John Rogers*.

The 35 U.S.C. 103(a) rejection of claims 1, 2, 17-21, 23, 25 as being obvious over *Curtis Rogers* in view of *John Rogers* is believed overcome in view of the above amendments, i.e., independent claim 1 now includes features of claim 3 which was not rejected over *Curtis Rogers* in view of *John Rogers*.

The 35 U.S.C. 103(a) rejection of claim 22 as being obvious over *Curtis Rogers* in view of *John Rogers* and further in view of *Linder* is believed overcome in view of the above amendment to independent claim 1 from which claim 22 depends. Specifically, *Linder* does not appear to teach or suggest the features of claim 3 now included in independent claim 1.

The 35 U.S.C. 103(a) rejection of claims 3-7, 9-15 as being obvious over *Curtis Rogers* in view of *John Rogers* and further in view of *Gifford* is believed overcome in view of the above amendments and at least the following remarks.

First of all, the Office's obviousness rationale has failed to provide a clear articulation of the reason(s) why the claimed invention would have been obvious.¹ The Office merely alleged that it would have been obvious to modify *Curtis Rogers* with *Gifford* "in order to reduce turbulence in the body" without furnishing any reason as to why a person of ordinary skill in the art would have considered the *Gifford* structure to be able to reduce turbulence. Further, both *Curtis Rogers* and *Gifford* are silent as to any turbulence reducing desirability or concern. Therefore, in the absence of any other evidence, Applicants respectfully submit that a person of ordinary skill in the art, looking at *Curtis Rogers* and *Gifford*, would have had no clue or reasonable expectation of success that modifying *Curtis Rogers* with *Gifford* would reduce turbulence (if at all).

Accordingly, a *prima facie* case of obviousness has not been properly established. Claim 3 (now independent claim 1) is clearly patentable over the art as applied in the Office Action.

Notwithstanding the above and solely for the purpose of expediting prosecution, Applicants have further amended claim 1 to additionally require that "the pressure take off point is positioned downstream of the valve in a region where there is minimal turbulence of air flowing through the air passage." As noted above, *Curtis Rogers* and *Gifford* fail to teach or suggest or even mention any desirability for turbulence reduction. Therefore, a person of ordinary skill in the art considering *Curtis Rogers* and *Gifford* would have had no reason to combine the references and arrange the *Curtis Rogers* pressure take off point in a region where there is minimal turbulence of air flowing as presently claimed.

¹ Rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR International Co. v. Teleflex Inc.*, 550 U.S. at 417, 82 USPQ2d at 1396.

The Office's rationale that it would have been obvious to "have provided the pressure take off point at various locations of the device" is noted. Again, the Office has failed to furnish a clear articulation of the reason(s) why the claimed invention would have been obvious. It appears to be the Office's position that it would have been "obvious to try" the pressure take off point at various locations. If so, Applicants respectfully disagree, because such a rationale, while being permitted after the Supreme Court's decision in *KSR*, requires that there are a finite, identified numbers of solutions (i.e., locations of the pressure take off point).² Since the interior of the device (even downstream of the valve) includes indefinite possible locations for the pressure take off point, and the references, namely *Curtis Rogers* and *Gifford*, provide no guidance as to the how the pressure take off point should be positioned, Applicants respectfully submit that there is no finite identified numbers of solutions. Since there is no finite, identified numbers of solutions, it would not have been obvious to try.

Withdrawal of the 35 U.S.C. 103(a) rejection of claim 1 and the respective dependent claims is now believed appropriate and therefore respectfully requested.

The 35 U.S.C. 103(a) rejection of claims 8 and 16 as being obvious over *Curtis Rogers* in view of *John Rogers* and further in view of *Gifford* and *Henry* is believed overcome in view of the above amendment to independent claim 1 from which claims 8, 16 depend. Specifically, *Henry* does not appear to be able to cure the deficiencies of *Curtis Rogers* and *Gifford* as discussed above with respect to independent claim 1.

Claim 25 is separately patentable over the applied art of record, because the references as applied in the Office Action, especially *Curtis Rogers* and *John Rogers*, are not properly combinable in a manner that would teach or disclose all features of claim 25. Specifically, the Office's rationale for combining *John Rogers* and *Curtis Rogers* at the sentence bridging pages 4-5

² See MPEP, section 2143.

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would result in, at best and if at all, the usage of the *Curtis Rogers* pressure gauge in place of the *John Rogers* gauge 109 which is provided at the spreader valve 103 of *John Rogers*.

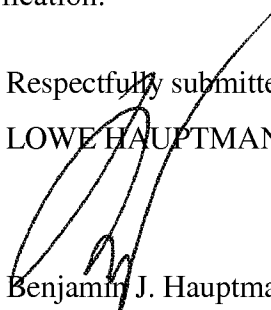
The claimed subject matter to the contrary requires a pressure monitoring device with the air outlet coupled to the air inlet port of the gun body. Thus, even if assuming *arguendo* that the references are combinable (which Applicants contend to the contrary), the combination would still fail to meet the claim requirement.

Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Benjamin J. Hauptman', is written over the printed name and firm name.

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